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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,447	04/24/2007	Max D. Woodhams	PTB-5091-6	6736

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EXAMINER
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KRUER, STEFAN

ART UNIT	PAPER NUMBER
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3654

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,447	<b>Applicant(s)</b> WOODHAMS, MAX D.	
	<b>Examiner</b> Stefan Krueer	<b>Art Unit</b> 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 10 - 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10 - 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

## **DETAILED ACTION**

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Footrest for a Stairlift Chair

### ***Disclosure***

The disclosure is objected to under 37 CFR 1.71 in that the following item is not understood.

The specification states that a "... pivot point 20 of the footrest is positioned on a plane perpendicular to an intended direction of travel of the chair, extending through a centerline 8 of the chair 6" (Page 5, L. 20 - 23), wherein said axis, as understood, extends such that it maintains a vertical orientation for a user yet does not extend perpendicular from a stairlift.

Furthermore, an adequate description of the structure and arrangement of the fixing means in relation to the footrest and bracket is lacking. The disclosure reviews in broad language a conceptual system, thereby enabling/requiring unnecessary interpretation as to a defined scope of the cooperative elements, their structure as well as their interaction, as acknowledged in the closing language of the disclosure above.

Applicant is required to submit an amendment, which clarifies the disclosure so that the examiner may ensure a proper comparison of the invention with the prior art.

Applicant should be careful not to introduce any new matter into the disclosure (i.e., matter which is not supported by the disclosure as originally filed).

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show "... pivot point 20 of the footrest is positioned on a plane perpendicular to an intended direction of travel of the chair, extending through a centerline 8 of the chair 6" and significant detail with respect to the locking means as referenced in the specification.

Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

**Claims 16 - 18** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. **Claim 16** recites that the chair comprises a central axis extending perpendicularly to an intended direction of travel of the chair, wherein said axis, as understood, extends from a vertical of said stairlift.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 10 - 14** are rejected under 35 U.S.C. 102(b) as being anticipated by Fortnam (3,820,844).

Re: **Claim 10**, Fortnam discloses a footrest (24, Fig. 1) comprising:

- a) A substantially planar upper surface (26);
- b) An outer edge (31, fig. 1 - 2);
- c) An inner edge (28, Fig. 2, 6) substantially opposed to and shorter than the outer edge;
- d) Side edges (27) joining respective outer margins of the inner edge and the outer edge; and
- e) A pivot point (29 – 44, Fig. 6) closer to the inner edge than to the outer edge and through which the footrest pivots about a substantially vertical axis with respect to the chair.

Re: **Claims 11 - 14**, Fortnam discloses respectively:

- in which the footrest has a geometric centerline (depicted in line with 17, Fig. 2);
- in which the pivot point lies on the centerline (vertical axis through 12, Fig. 1);
- in which the side edges extend outwardly from the outer edge (curvature about 48);
- further comprising means to fix the position of the footrest about the pivot point (19, 45 and 48, Col. 2, L. 47 – 67).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 15 - 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartlet (5,230,405) in view of Fortnam.

Re: Claims 15 - 18, Bartlet disclose his stairlift chair (106, Fig. 5) having a footrest (296, Fig. 14, Col. 6, L. 42), wherein his stairlift chair is in combination with a stairlift (104, 102, Fig. 1), wherein his chair has a central axis (Fig. 4B) extending vertically from an intended direction of travel of his chair and his foot rest has a geometric centerline, outer, inner and side edges, wherein said inner edge is substantially opposed to said outer edge, wherein his chair can be pivoted about a vertical axis and his footrest can be rotated about a horizontal axis (Col. 6, L. 18 – 45), a pivot position of his footrest lying on a geometric centerline of his footrest.

However, Bartlet is silent with respect to his footrest pivots with respect to his stairlift chair about a vertical axis and said inner edge being shorter than said outer edge and a pivot position of his footrest lying on a central axis of his chair.

Fortnam discloses a footrest of Claims 10 – 14, wherein a pivot position of his footrest lies on both a central axis (12) of his chair and a geometric centerline of his footrest.

It would have been obvious to one of ordinary skill in the art to modify the reference of Fortnam with the teaching of Bartlet to provide a footrest being pivotable about a vertical axis of a chair, an inner edge of said footrest being shorter than an outer edge of said footrest and a pivot position of said footrest lying on a central axis of a stairlift chair, for benefits of maintaining a compact, symmetrical arrangement so as to minimize hindrances to users of associated stairs as well as offset loading for stability.

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### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Webster et al (US D565475 S), Voves et al (US 4913264 A) and Ward (US 3642320 A) are cited for reference of:

- a stairlift chair, wherein said chair has a foot rest having a pivot position along a geometric centerline of said footrest as well as along a central axis of said chair;
- a stairlift having a chair and footrest, wherein said chair has a central axis about which said chair pivots and said footrest has a pivot position about a geometric centerline of said footrest, and
- a combination of a chair and a footrest, wherein said footrest is pivotally mounted along an inner edge about a central axis of said chair lift, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Kruer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Q. Nguyen, can be reached on 571.272.6952. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).

/Stefan Kruer/  
Examiner, Art Unit 3654  
6 June 2009

/John Q. Nguyen/  
Supervisory Patent Examiner, Art Unit 3654